

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

HAAS DOOR COMPANY  
320 Sycamore St.  
Wauseon, OH 43567

Plaintiff,

v.

HAAS GARAGE DOOR COMPANY  
26020 Glenwood Ave.  
Perrysburg, OH 43551

Defendant.

Case No.: 3:13-cv-02507-JJH

Judge Jeffrey J. Helmick

**PLAINTIFF'S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
DEFENDANT'S COUNTERCLAIM**

**JURY DEMANDED**

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**PLAINTIFF'S ANSWER AND AFFIRMATIVE DEFENSES TO DEFENDANT'S  
COUNTERCLAIM**

Plaintiff Haas Door Company ("Plaintiff"), by their attorneys, as and for their Answer to the Counterclaim for Declaratory Relief ("Counterclaim") of Defendant Haas Garage Door Company ("Defendant") alleges as follows:

Other than with respect to Paragraphs 18 and 19 of Defendant's Affirmative Defenses, Defendant's Answer and Affirmative Defenses do not contain any factual allegations which must

be admitted or denied. Plaintiff denies the allegations contained in Paragraphs 18 and 19 of Defendant's Affirmative Defenses. However, to the extent that any other of Defendant's Answer and Affirmative Defenses are construed to require admission or denial, Plaintiff denies them.

Furthermore, Plaintiff denies each and every allegation, matter, and thing contained in Defendant's Counterclaim, and each and every portion thereof, unless herein specifically stated otherwise.

1. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the allegation contained in Paragraph 1 of Defendant's Counterclaim.

2. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 2 of Defendant's Counterclaim.


3. In response to Paragraph 3 of Defendant's Counterclaim, Plaintiff admits that Plaintiff was incorporated in the State of Ohio in 1961, and lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 3.

4. In response to Paragraph 4 of Defendant's Counterclaim, Plaintiff admits that Defendant was incorporated in the State of Ohio in 1965, and lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 4.

5. In response to Paragraph 5 of Defendant's Counterclaim, Plaintiff admits that Plaintiff was sold in 1989, and lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 5.

6. In response to Paragraph 6 of Defendant's Counterclaim, Plaintiff admits that Plaintiff was again sold in 1995, and lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 6.

7. In response to Paragraph 7 of Defendant's Counterclaim, Plaintiff admits that

Plaintiff applied to federally register the  trademark in 2001, and admits that Edward Nofziger signed such federal trademark application in his capacity as President of Plaintiff. In further response to Paragraph 7 of Defendant's Counterclaim, Plaintiff denies that Exhibit A to Defendant's Counterclaim includes all elements of Plaintiff's application for federal registration

of the  trademark.

8. Plaintiff admits the allegations contained in Paragraph 8 of Defendant's Counterclaim.

9. Plaintiff denies the allegations contained in Paragraph 9 of Defendant's Counterclaim.

10. Plaintiff denies the allegations contained in Paragraph 10 of Defendant's Counterclaim.

#### **PLAINTIFF'S AFFIRMATIVE DEFENSES TO DEFENDANT'S COUNTERCLAIM**

11. United States Trademark Registration No. 2,594,259 is valid and enforceable.

12. Defendant's Counterclaim is barred in whole or in part by the equitable doctrines of, without limitation, waiver, laches, estoppel and/or acquiescence.

13. Defendant's Counterclaim fails to state a claim upon which relief may be granted.

14. Applicant hereby gives notice that it intends to rely upon such other and further affirmative defenses as may become available through discovery or otherwise and reserves its right to assert and rely upon further affirmative defenses as of right or by appropriate motion.

**WHEREFORE**, Plaintiff prays for relief as follows:

A. Dismissal of Defendant's Counterclaims with prejudice;

- B. Plaintiff's reasonable attorney's fees, costs and expenses incurred in this lawsuit as provided by law;
- C. The relief requested in Plaintiff's Complaint; and
- D. Such other and additional relief, at law or equity, as may be warranted by the facts and the law.

Respectfully submitted,

/s/ Christopher D. Marriott

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*Attorneys for Plaintiff Haas Door Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 30, 2014 a copy of foregoing *Answer and Affirmative Defenses to Defendant's Counterclaim* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Carl A. Schaffer

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